

State of the Judiciary, Jefferson City, February 2023

8 February 2023

*The Honorable Paul C. Wilson,
chief justice of the Supreme Court of Missouri,
delivered this State of the Judiciary address Wednesday morning, February 8, 2023,
during a joint session of the Missouri General Assembly in Jefferson City, Missouri.*

*(Video courtesy Missouri House of Representatives communications office;
photos courtesy Tim Bommel, photojournalist, House communications.)*

2023 Legislative Session - Day Twenty - Wednesday, February 8 -
Morning

Adjourned

Introduction



Speaker Plocher, Lieutenant Governor Kehoe, President Pro Tem Rowden, members of the 102nd General Assembly, statewide office holders, cabinet members and other executive branch officials: thank you for the opportunity to speak with you this morning.

Earlier this year, I had the privilege of speaking to a number of new legislators. It occurred to me, not for the first time, how incredibly difficult your role is. You come to this magnificent building with a lifetime of expertise and achievement in so many separate fields: education, law enforcement,

agriculture, business and so many more. You gather from all these diverse backgrounds to take on a new challenge, to help manage one of the largest and most complex businesses there is ... state government.

Of course, there is simply no way you can learn all there is to know about everything the government does ... not in one year, or one term, or one lifetime. So, my job this morning is to try to describe for you the part of government I know best; to tell you who the judicial branch is and what we do.

You all know Government Relations Counsel Patricia Churchill, and Betsy AuBuchon, clerk of the Supreme Court, and you've been introduced to my six colleagues on that Court ... but we are not the judiciary. Not even close.

The heart and hands of the judicial branch

No, the heart and the hands of the judicial branch are the 400 circuit and associate circuit judges around this state, and the 3,000 clerks, bailiffs, juvenile officers, juvenile detention staff, court reporters, commissioners and all the rest who work, together, to resolve nearly 750,000 cases a year. When you add in all the full and part time municipal judges and staff, the number of cases nearly doubles.

Together, day in and day out, *these* are the people who do the work of the judicial branch. And none of them work across the street in the Supreme Court building. Instead, they work in local courthouses across the state. They're your friends, your neighbors, and your constituents. The work they do is difficult, often taxing, and it requires them to handle a high volume of work without ever losing the compassion needed to serve their communities one case at a time. *They* are the judicial branch, and they do the work of one of the most important institutions we have.

That's why, to begin with, I want to thank all of you – on behalf of all 3,000 of our court employees –for the efforts you've made to increase their compensation, especially last year. They understand the importance of the work they do, but having pride in what you do just won't fill the gas tank or pay for child care, and it sure doesn't buy any groceries. That's why I join Governor Parson in asking that you pass the recommended cost-of-living adjustment in the FY23 supplemental budget.

This COLA will help make sure the ground these employees gained in recent years isn't lost to inflation. In addition, we are asking you to fund the overtime court clerks are already working to meet the unprecedented obligations imposed by the passage of Amendment 3 last fall.

It's simple: Courts resolve disputes

That's a little about who the judicial branch is, but what really matters is what do we do. We resolve disputes – period. Nearly a million and half times every year, courts apply the law to the facts to resolve the dispute in front of them. The law comes from the people in the form of the state and federal constitutions, and it comes from you in the form of the laws you write, and the local ordinances and administrative regulations you authorize. Judges apply this law to the facts to resolve the disputes brought to them. That's it. Lawyers like to make simple things sound complicated, but that's all we do – figure out the facts of each dispute – who did what to whom – and apply the law to resolve it. Being a judge isn't easy, but it's real simple.



What's so important about the justice system is not merely what we do, it's how much of it we do. And how essential it is to have one place in society where the law controls, where facts are proved with evidence, where truth matters, and where justice prevails.

The framers knew that, in a free society, there would be disputes – not only between citizens, but between citizens and their government, and between different parts of government. That's why our constitution provides for an independent judiciary – to resolve those disputes. The constitution empowers judges *not* because we're blessed with infallible wisdom (we aren't or, at least, I'm not), but because the framers understood the rule of law matters, *someone* must decide, and those decisions need to have the force and effect of law. The framers knew the only

alternative was anarchy, and they were right.

Courts are able to fulfill this essential function because the people believe they do. The rule of law matters because the people believe it matters, and because they know the courts are there to defend it.

Now, what do I mean by the "rule of law"? Well, scholars have spent thousands of pages debating that question, but I don't think it's that complicated. Think about it this way: every one of us has pulled up to a blinking red stop light in the middle of the night ... with perfect visibility and not another car in sight. We still stop Why? Because we believe so firmly in the rule of law we don't even consciously think about it.

If that belief falters, if we only follow the laws we agree with, or only when we want to, society won't be fit for any of us to live in. Everything we do depends on that public trust, and all of us have a stake in protecting and fostering it.

Here's another, more poignant example. Every Friday night, thousands and thousands of parents in

this state shuttle their children across town to the custody of the other parent. Why? Because a judge told them they have to. They don't do it because they agree with it – they do it because they respect your laws and the courts that enforce them. Due process ensures these people have a right to be heard, but they know, when the judgment is final, that's it.

And it's not just family law. Missouri courts resolve thousands of disputes involving businesses and consumers every year. And both sides – those who prevail and those who don't – comply with those judgments. Not because they agree. One side – and sometimes both sides – can disagree with the court's judgment. But they comply because they believe in the rule of law and they know no one can do business – at all – without the system of laws you write and the judicial branch to enforce them.

Preserving public trust and confidence

If the public loses its trust in the judicial branch and the rule of law, if we return to the time when might makes right, when the mob rules whether you're *in* it or being chased *by* it, it will be because we – all of us in this room – failed in our duty to safeguard one of the essential institutions created by our constitution.

The Rules of Professional Conduct for lawyers spell this out clearly. Its preamble states: "A lawyer should further the public's understanding of and confidence in the rule of law and the justice system [L]egal institutions in a constitutional democracy depend on popular participation and support to maintain their authority."



But I'm telling you, lawyers and judges can't do it alone. We need your support. No one in this government has a more direct line of communication to the public than the 200 legislators in this room – our entire form of government is built on that simple fact. You are closer to the citizens of this state than anyone else. More than that, I believe no one has a greater interest than you do in upholding the public's trust in the judicial branch. We are the ones who apply and enforce the laws you write. So, when you speak to your constituents, remember how important it is for them – and you – to understand and trust your judicial system.

I doubt you agree with every decision the seven of us make, let alone the hundreds of thousands of decisions made every year by trial judges all around this state. I know I don't. So, if you want to tell your constituents you think we got it wrong, that's your right. But when you do, take a minute to explain that – even when you think we got it wrong – you know judges are just public servants like you ... doing their best to decide cases based on the facts and their best understanding of the law ... because I promise you that's true.

I know the judges in this state – I've spent most of my professional life working in front of and alongside them. As a lawyer, I won and lost. As a trial judge, I was affirmed and reversed. And, now, sometimes I'm in the majority and sometimes I'm in the dissent. But I have never met a single

judge who didn't do their best to apply the law to the facts to decide each case. They are as committed to the rule of law as you would want them to be, and Missourians deserve to know that. So, I'm asking for your help in preserving and promoting the people's trust in the rule of law and their judicial system.

Technology is essential to making courts open and accessible

Of course, it takes more than education to foster and protect that trust. We work hard to ensure that those who bring or have cases brought against them are treated fairly and with respect, that their rights are protected, and that they understand what the court is doing and why.

One of the keys to making Missouri courts more open and accessible is the work we have done on court technology and automation. These innovations have not only revolutionized how we work, they've fundamentally changed how Missourians interact with their court system.

Today, most traffic cases can be resolved online. Our eJuror system makes more efficient use of citizens' time when they are called to provide this essential form of public service. Public terminals in every county courthouse, and even in your legislative library, give Missourians access to any public document in their case ... or any case across the state. And, starting this July, we will begin making this same functionality available over the internet so Missourians can access public court documents when and where it's most convenient for them.

For years, remote video appearances were used mostly in early stages of criminal cases, to avoid the expense and security concerns of transporting defendants to and from jail unnecessarily. But, when the pandemic hit, suddenly these virtual appearances became a necessity for nearly every kind of case. Now, they are a permanent, indispensable part of the judicial landscape. They not only help make judges more efficient, they can make many court appearances more convenient for those we serve.

It is astounding how quickly a cutting-edge innovation becomes an essential part of what we do and how we do it. Things we couldn't imagine yesterday, people simply can't do without today. In recent years, you've supported this work by helping to stabilize the various funding streams for court automation, and this year brings another important step on that path.

The statute imposing a \$7 filing fee for court automation, first enacted way back in 1994, is again up for renewal. Some of the funding for court automation comes from general revenue because the courts serve every Missourian every day, whether they have a case pending or not. Nevertheless, it is fair for those using the judicial system to pay a part of the costs of that system, and this \$7 filing fee – which has *never* gone up in the 30 years we've had it – provides an essential part of the funding for an essential part of our work. I urge you – actually I'm begging you – to renew it this session.

The success of treatment courts

We can also strengthen the public's trust in the judicial system by working with you to find better, more just ways of resolving some of the disputes we see every day in courtrooms around the state. One of the best examples of this collaboration



has been the way treatment courts respond to defendants with mental health and co-occurring substance use disorders.

Each treatment court success story means a prison term or a life altering felony conviction avoided. It means strengthening our communities by helping one person at a time break the cycle of addiction before it lands them in prison. But even more important, every one of these success stories means a family restored, not shattered; a constructive life returned to society, not lost to incarceration; and – so many times – it means a parent who is there to play a meaningful role in their children's lives, not someone those kids see through a piece of plexiglass only once a month, if at all.

The return on investment you've made in treatment courts has exceeded every expectation, and the future is even brighter. Not only do treatment courts save money, they're a better and more just way of handling these offenses.

Impacts of the mental health crisis

But treatment courts can't solve every problem. Increasingly, Missouri courts are finding themselves on the front lines of a growing mental health crisis in this country. Too often, we are confronted with individuals manifesting mental health conditions so profound they are not even competent to stand trial. Police have to arrest them and prosecutors charge them – both to protect those defendants and the rest of us – but we can't proceed with their case. Medication, case management and treatment can often restore competency, but delays in getting defendants into traditional in-patient facilities leaves them – and our courts – stuck in limbo, unable to move forward or back.

This is why the Missouri Justice Reinvestment Initiative recommends you strengthen efforts to bring competency restoration services to the defendants where they are. By using mobile medication and case management teams – and by empowering local behavioral health clinicians – we can get more help, sooner, to those who need it; restore their competence; resolve the charges against them; and return them to their communities – and to community-based care – as soon as possible. Missouri courts are proud to be a part of this initiative, led by Corrections Director Precythe and Mental Health Director Huhn, and we strongly support this recommendation.

The mental health crisis is also creating problems for judges outside the courtroom. Violence and threats of violence toward judges and their families are increasing every day. When I spoke to you last year, I recited a frightening list of deadly attacks, both inside and outside Missouri. I won't repeat them.

But what I said last year is just as true today: We owe it to the those who serve in Missouri's judiciary not to wait until we learn – in the worst possible way – that we waited too long, and did too little. This session, you will be considering several bills aimed at protecting judges' private

information, and I urge you to give them your most careful consideration.

Using judges as a resource

All of the things I've mentioned are things you can do to help courts perform better for all Missourians. But I urge you to use us as a resource as well. Just as we did in 2014, when you rewrote the criminal code, I believe we can help inform the decisions you make throughout the substantive law.

When you consider changes – whether to family law, landlord-tenant, debt collection, crimes and punishments, or any one of a hundred other areas of law you write – don't forget this: some of the men and women who know the *most* about those issues – and the important, often competing, rights involved – are the judges in your communities who hear those cases every day.

Judges know the constitution empowers you to write the substantive law, not us. But I'm hoping you will use them and their expertise to inform the decisions you make.

Conclusion

Soon, my turn as chief justice will come to an end – 142 days, but who's counting! So, if you'll allow me a point of personal privilege, I'd like to thank my wife Laura for all of her support, not only while I've been chief, but throughout my career. You'll never know what it cost her, and I ask you to help me thank her now.

I also want to take this opportunity to express how profoundly grateful I am for the opportunity to serve the people of this state as a member of their Supreme Court. Each of you, I'm sure, gets a thrill every time you walk into this magnificent chamber – the People's Chamber – and you feel a sense of obligation to fulfill the promises this great building represents.

The same is true for me. Every time I walk into the red brick building across the street, I am so very proud of our judicial system and the work it does. Every day, I'm reminded how incredibly fortunate I am to play a role in that work, and how thankful I am that I get to do it with colleagues I love and respect.

Last year, I had the great pleasure of introducing to you Judge Robin Ransom, our newest member. But, for every sunrise, there must be a sunset. This fall, we will lose two of our number to retirement. Combined, those two judges have served the people of this state for more than 70 years, first as trial judges, then on the court of appeals, and now on the Supreme Court. Both of them have dedicated their lives – not just to the work of the courts – but to the principles of access, fairness, and equal justice for all; principles that lie at the heart of our justice system. The courts have benefited immeasurably from their work, and we will miss them dearly.

Judge Patricia Breckenridge was unable to join us today, but the Honorable George W. Draper III is here. Please join me now in recognizing the lifetime of service both Judge Draper and Judge Breckenridge have given to this state and its people.

Judges – like legislators – come and we go. We're called, we serve, and we step aside. But the institutions in which we serve will go on. No player, no team is bigger than the game. The judicial branch goes on – the legislative and executive branches go on – this government "of the people, by the people and for the people" goes on. That's the strength, the miracle of our constitutional democracy.

So, look around this chamber and think of the millions of Missourians we are privileged to serve.

Remember how incredibly precious that opportunity to serve is ... and how fleeting it is. And remember, too, when each of us reaches the end of our service, none of us will be judged in isolation – on what we alone said or even did. No, we will all be judged, as we should be, collectively. On how well the government – the People's Government – worked. On how well it served them.

May God bless each of you. May God continue to bless the great State of Missouri. And, of course, may God bless Patrick Mahomes' right ankle! Thank you.

